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REMARKS

Claims 1-32 of the application stand rejected. Claims 1, 11 and 19 have been amended herein to more clearly define the scope of the presently claimed invention. Applicant respectfully requests reconsideration of pending Claims 1-32 in light of the amendments and remarks herein.

35 U.S.C. §103

Claims 1-32 stand rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 5,760,917 ("Sheridan") in view of U.S. Patent No. 6,611,613 ("Kang"). The Examiner submits that Sheridan discloses all the elements of the independent claims but does not specifically enumerate the use of face recognition technology. The Examiner suggests, however, that Kang discloses face recognition technology and that it would have been obvious to one of ordinary skill in the art at the time of the invention by Applicant to incorporate the use of face recognition technology into the Sheridan image distribution method and system. Applicant respectfully traverses the Examiner's rejection.

First, Applicant respectfully submits that the Examiner inappropriately combined Sheridan and Kang. Specifically, Sheridan discusses an image distribution method and system, with no mention of any type of facial recognition technology. Kang, on the other hand, describes an apparatus and method for detecting speaking person's eyes and face, without any suggestion that the system may be used in an image distribution method and system of Sheridan. Applicant respectfully submits that the references cannot be combined in the manner suggested by the Examiner. Nothing in either reference suggests that one of ordinary skill in the art would have thought to combine the two baring hindsight. The mere fact that a combination of the two *may* have produced beneficial results does not *prima facie* motivate a combination of the two. In other words, the fact that the combined references *may* provide a benefit does not render the combination of the references obvious or proper. As set out in M.P.E.P. § 706.02(j), "(t)here must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to

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combine reference teachings.” Applicant respectfully submits that there is no such motivation. The Examiner states conclusively, without further support, that it would have been obvious to one of ordinary skill in the art at the time of the invention by Applicant to incorporate the use of face recognition technology into the Sheridan image distribution method and system.” Applicant respectfully disagrees and suggests that the Examiner cannot make such a blanket statement without addition support. In fact, since Sheridan and Kang are directed at different technology areas (image distribution and facial recognition technology), Applicant submits that combination of the two would not be obvious to one of ordinary skill in the art barring hindsight. Applicant therefore respectfully maintains that there is nothing in either reference that would motivate one of ordinary skill in the art to combine the two. Applicant therefore respectfully submit that the combination of these references is improper and respectfully request the Examiner to withdraw the 35 U.S.C. § 103 rejections to Claims 1-32.

Even assuming *arguendo* these references were properly combined, Applicant respectfully submits that Sheridan and Kang do not render Claims 1-32 unpatentable. Sheridan describes an image distribution method and system, similar to prior art schemes described in the Background section of the Specification (see e.g., Specification, Pages 1-3). The sections of Sheridan highlighted by the Examiner (Sheridan, Col. 5, lines 19-42, Col. 10, lines 61-67 and Col. 11, lines 1-59) as teaching the element of “applying face identifying information associated with the image to the sharing rule to determine the one or more recipients with which the image should be shared” make no mention of *face identifying information*. There is no mention or suggestion herein that face identifying information may be used applied to a sharing rule to determine which recipients should receive an image. As previously stated, the Examiner concedes that Sheridan makes no mention of facial recognition technology and Applicant once again submits that it would not have been obvious to one of ordinary skill in the art to combine the face recognition techniques in Kang with the image distribution scheme in Sheridan to render the claimed invention unpatentable. The technology described in Sheridan and Kang are in distinctly different technology areas (image distribution and face recognition technology) and there is no motivation in either to combine the references as suggested. Additionally, there is no explanation in either reference of how such a combination would be enabled to work.

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Applicant therefore respectfully submits that Sheridan does not teach all elements of the claimed invention, that one of ordinary skill in the art would not be motivated to combine Sheridan with Kang, and, that even if motivated, there is no teaching or suggestion in either Sheridan or Kang as to how such a combination would be successfully achieved. As such, Applicant respectfully submits that Sheridan and Kang do not, and cannot, render independent Claims 1, 11, 19 and 29 unpatentable. Similarly, for at least this reason, the references cannot render all claims dependant on these independent claims unpatentable. Applicant therefore respectfully requests the Examiner to withdraw the rejection to Claims 1-32 under 35 U.S.C. §103.

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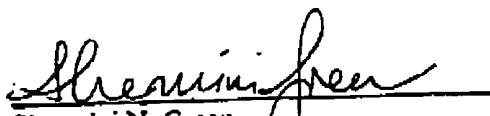
CONCLUSION

Based on the foregoing, Applicant respectfully submits that the applicable objections and rejections have been overcome and that pending Claims 1-32 are in condition for allowance. Applicant therefore respectfully requests an early issuance of a Notice of Allowance in this case. If the Examiner has any questions, the Examiner is invited to contact the undersigned at (310) 406-2362.

If there are any additional charges, please charge Deposit Account No. 50-0221.

Respectfully submitted,

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